

REMARKS

I. Introduction

In response to the Office Action dated March 5, 2008, claims 26, 55, and 68 have been amended, and new claim 79 has been added. Claims 1-79 are in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Prior Art from Related Cases

According to MPEP §§2001.06(b), 609.02, the Examiner will consider prior art cited in earlier continuation applications, and must indicate in the first Office Action whether the prior art cited in the related earlier application has been reviewed. The Applicants note that this application is a continuation of one or more parent or sibling applications. Accordingly, the Applicants respectfully request that the Examiner indicate that a review of the related cases has been undertaken and the prior art cited and arguments made in those applications has been considered.

III. Claim Amendments

Applicants' attorney has made amendments to the claims as indicated above. These amendments were made solely for the purpose of clarifying the language of the claims, and were not required for purposes of patentability.

IV. Office Action Double Patenting Rejection

In paragraphs (1)-(2), the Office Action rejects claims 26 and 55-78 under 35 U.S.C. §101 as claiming the same invention as that of claims 1-25 of prior U.S. Patent 6,754,906. This is a double patenting rejection. The Applicants have amended claims 26, 55 and 68 and believe such claims no longer to be contrary to 35 U.S.C. § 101.

In paragraphs (3)-(4), the Office Action rejects claims 1-24, 27-30, 32-39, and 41-53 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,754,906. The Applicants hereby submit a terminal disclaimer, obviating this

rejection. With this terminal disclaimer, claims 1-24 are allowable, and the non-statutory double patenting rejection of claims 27-30, 32-39, and 41-53 is obviated.

V. The Cited References and the Subject Invention

A. The Rowe Reference

U.S. Patent No. 5,623,613, issued April 22, 1997 to Rowe et al. discloses a system for displaying programming information. A system for retrieving and displaying programming information in response to selection of a category of programming information. Programming information is presented via a schedule display having a category display, a subcategory category display, and a program display. The category display displays an array of category tiles representing categories of programming information. The subcategory display displays an array of subcategory tiles representing subcategories that are associated with the categories of the category display. The program display displays an array of program tiles that are associated with the subcategories of the subcategory display. A viewing panel extends along each of the displays for displaying one each of the category, subcategory, and program tiles. Classes of programming information are selected by scrolling the tiles of the associated displays until the desired class items are presented within the viewing panel.

B. The Knowles Reference

U.S. Publication No. 2005/0251822, published November 10, 2005 to Knowles et al. discloses multiple interactive electronic program guide system and methods. The Multiple Interactive Program Guide (IPG) system provides different television programming and different IPGs to several different users respectively. A single set-top box is capable of providing programming and scheduling data to several different television sets. Each of the different IPGs share a common database. Therefore, a first IPG being viewed by a first user can display data added or modified via a second IPG by a second user of the system. Furthermore, the data added or modified by the second user can influence the viewing rights of the first user. Also, all the competing and conflicting requests for limited resources, such as VCR scheduled recordings, will be brought to the users' attention and will be displayed by the system.

C. The Herz Reference

U.S. Patent No. 5,835,087, issued November 10, 1998 to Herz et al. discloses a system for generation of object profiles for a system for customized electronic identification of desirable objects. This invention relates to customized electronic identification of desirable objects, such as news articles, in an electronic media environment, and in particular to a system that automatically constructs both a "target profile" for each target object in the electronic media based, for example, on the frequency with which each word appears in an article relative to its overall frequency of use in all articles, as well as a "target profile interest summary" for each user, which target profile interest summary describes the user's interest level in various types of target objects. The system then evaluates the target profiles against the users' target profile interest summaries to generate a user-customized rank ordered listing of target objects most likely to be of interest to each user so that the user can select from among these potentially relevant target objects, which were automatically selected by this system from the plethora of target objects that are profiled on the electronic media. Users' target profile interest summaries can be used to efficiently organize the distribution of information in a large scale system consisting of many users interconnected by means of a communication network. Additionally, a cryptographically-based pseudonym proxy server is provided to ensure the privacy of a user's target profile interest summary, by giving the user control over the ability of third parties to access this summary and to identify or contact the user.

VI. Office Action Prior Art Rejections

In paragraphs (5)-(6), the Office Action rejected claims 25, 27-28, 30-31, 33-37, 39-40, 42-44, and 51-54 as being anticipated by Rowe et al., U.S. Patent No. 5,623,613 (Rowe). The Applicants respectfully traverse these rejections.

With Respect to Claim 25: Claim 25 recites:

*An electronic program guide comprising:
a set of electronic program guide data including a plurality of program titles and a plurality of organizational categories, where each program title belongs to at least one organizational category;
a spatial arrangement of program titles in an outline format, where a first-level organization of the electronic program guide utilizes one organizational category and defines the first-level of the outline format, and a second-level organization of the electronic program guide utilizes a different organizational category and defines the second-level of the outline format; and*

wherein the first organizational category and the second organizational category can be used at either of the first level of the outline format and the second level of the outline format.

The Office Action indicates that the features described in the last clause of claim 25 (i.e. “wherein the first organizational category and the second organizational category can be used at either of the first level of the outline format and the second level of the outline format”) is disclosed in the Rowe reference because:

“Both Sports column and Basketball column can acts [sic] as stand along [sic] first level or second level that includes corresponding programs.”

The Applicants respectfully traverse. Claim 25 recites that either category can be used at either of the first level of the outline format or the second level of the outline format. Referring to FIG. 4 of the Rowe reference (reproduced below), this would mean that the Rowe reference must disclose using “Basketball” at the first level and “Sports” at the second level. This does not appear to be disclosed in Rowe, and the Office Action provides no guidance regarding where such disclosure may be found.

With Respect to Claim 27, 36, and 54: Claim 27 recites:

*A method of generating a program guide for display, comprising the steps of:
retrieving program guide input data, the program guide input data including a plurality of organizational categories, a plurality of program titles, each associated with at least one organizational category; and
generating the program guide, wherein the program guide includes a hierarchical arrangement of at least a portion of the organizational categories, at least a subset of the program titles associated with the portion of the organizational categories; and
wherein the hierarchical arrangement includes a plurality of organizational levels and the at least a portion of the organizational categories are used at any of the organizational levels.*

According to the Office Action, Rowe discloses the features described in the last clause of claim 27 as follows:

“the hierarchical arrangement including a plurality of organizational levels, wherein the at least a portion of the organizational categories are used at any organizational level (50, 52, 54; Sports column 52 can be used as both first level that includes 54 and used as a second level that included in schedule display 50, Basketball column 54 also can be used as first and

second level); at least a subset of the program titles associated with the organizational category (56; display program titles are associated with the selected basketball category).”

The Applicants frankly do not understand the Office Action’s interpretation of the Rowe reference. Rowe discloses a system wherein the hierarchical organization of the categories is fixed. Sports appears at the highest level, then basketball, and that does not appear to change.

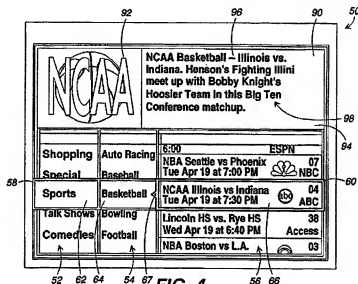


FIG. 4

Accordingly, the Applicants disagree that Rowe discloses a system wherein the hierarchical arrangement includes a plurality of organizational levels and at least a portion of the organizational categories are used at any of the organizational levels. As far as the Applicants can ascertain, “Basketball,” for example is used only at the second hierarchical level, and “Sports” is used only at the first hierarchical level.

Claims 36 and 54 recite similar features and are patentable for the same reasons.

With Respect to Claims 28, 30, 31, 33-35, 37, 39, 40, 42-44 and 51-53: Claims 28, 30, 31, 33-35, 37, 39, 40, 42-44 and 51-53 recite the features of the claims they depend upon and are patentable on the same basis. Further, claims 28, 30, 31, 33-35, 37, 39, 40, 42-44 and 51-53 disclose features that render them further distant from the teachings of Rowe. For example, claims 31 and 40 recite that the hierarchical arrangement is user controllable. This is not analogous to merely selecting a different category for display, because in that case, the arrangement of the categories remains the same.

With Respect to Claims 29 and 38: In paragraph (7)-(8), the Office Action rejected claims 29 and 38 under 35 U.S.C. §103(a) as being unpatentable over Rowe. The Applicants respectfully traverse. Claim 29 recites that the organizational categories include time, topic, and actor. The Office Action reasons that it is well known to perform searches using an actor category, but even if true, it is not well known to present the results in a hierarchical form with other categories.

With Respect to Claims 32, 41, 45-48, and 50: In paragraph (9), the Office Action rejected claims 32, 41, 45-48, and 50 under 35 U.S.C. §103(a) as being unpatentable over Rowe in view of Knowles et al., U.S. Publication No. 2005/0251822 (Knowles). The Applicants respectfully traverse. Claims 32, 41, 45-48, and 50 each include the features of the claims they depend upon and are patentable on the same basis.

With Respect to Claim 49: In paragraph (10), the Office Action rejected claim 49 under 35 U.S.C. §103(a) as being unpatentable over Rowe in view of Herz et al., U.S. Patent No. 5,835,087 (Herz). Applicants respectfully traverse this rejection. The proffered motivation to modify Rowe as described in Herz is to “provide more user information,” but there are certainly simpler ways to do so than providing the information in 3D. Also, adding 3D information to the display of Rowe would make it difficult to read to the point of being unreadable and would be confusing with respect to the presentation of the hierarchies. Rowe teaches spinning to select different categories. The Applicants are confused regarding how a 3D presentation would operate with such a display paradigm. “If when combined, the references ‘would produce a seemingly inoperative device,’ then they teach away from their combination.” *In re Gurley*, 27 F.3d 551, 553, 31 U.S.P.Q.2d 1130 (Fed. Cir. 1994) (quoting *In re Spinnoble*, 405 F.2d 578, 587, 160 U.S.P.Q. 237, 244 (C.C.P.A. 1969)).

VII. Dependent Claims

Dependent claims 2-13, 15-24, 28-35, 37-53, 56-67, and 69-78 incorporate the limitations of their related independent claims, and are therefore patentable on this basis. In addition, these claims recite novel elements even more remote from the cited references. Accordingly, the Applicant respectfully requests that these claims be allowed as well.

VIII. New Claim

New claim 79 recites that the first level of the outline format recited in claim 25 is hierarchically above the second level of the outline format. This further distinguishes the Applicants' invention from Rowe, because Rowe does not disclose, for example, "Basketball" a hierarchical level above "Sports". Accordingly, new claim 79 recites features even more remote from the Rowe references, and should be allowed.

IX. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Respectfully submitted,

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